Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

AMENDED MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SOUTH TEXAS SPINE & SURGICAL HOSPITAL
18600 HARDY OAK BLVD
SAN ANTONIO TX 78258-4206

Respondent Name

AMERICAN CASUALTY CO OF READING PA

Carrier's Austin Representative Box

Box Number 47

MFDR Tracking Number

M4-09-9333-02
(formerly M4-09-9333-01)

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The maximum Allowable Reimbursement (MAR) as established by Labor Code 413.011 was not figured correctly on the above services. We asked for reimbursement at 130% on the OPPS amount of $22,069.23 equal to $28,689.99 plus implants at $20,350.00. The total we should have been reimbursed is $49,039.99 but were instead paid $34,048.23. We are due a balance of $14,991.76"

Amount in Dispute: $1,213.28 (from the updated *Table of Disputed Services* submitted by the requestor.)

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Additional pmt 6-23-09 – 13,778.48. Int pd 6-25-09 – 243.58."

Response Submitted by: Gallagher Bassett, PO Box 151509, Austin, TX 78715

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 9, 2008	Outpatient Hospital Services	$1,213.28	$0.00

FINDINGS AND DECISION

This **amended** findings and decision supersedes all previous decisions rendered in this medical payment dispute involving the above requestor and respondent.

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. The requestor submitted a revised *Table of Disputed Services* reflecting receipt of additional payment in the amount of $13,778.48 received after the filing of this dispute. The requestor is now seeking additional

reimbursement of $1,213.28.

2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
3. 28 Texas Administrative Code §134.403 sets out the guidelines for reimbursement of hospital facility fees for outpatient services.
4. 28 Texas Administrative Code §134.403(e) states that: "Regardless of billed amount, reimbursement shall be:
   (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
   (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables.
   (3) If no contracted fee schedule exists that complies with Labor Code §413.011, and an amount cannot be determined by application of the formula to calculate the MAR as outlined in subsection (f) of this section, reimbursement shall be determined in accordance with §134.1 of this title (relating to Medical Reimbursement).
5. 28 Texas Administrative Code §134.403(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
   (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
      (A) 200 percent; unless
      (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent."
   (2) When calculating outlier payment amounts, the facility's total billed charges shall be reduced by the facility's billed charges for any item reimbursed separately under subsection (g) of this section.
6. 28 Texas Administrative Code §134.403(g) states that "Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission.
   (1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."
7. 28 Texas Administrative Code §134.403(h) states that "For medical services provided in an outpatient acute care hospital, but not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2) of this section, and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided."
8. All services paid under the Medicare Outpatient Prospective Payment System (OPPS) are classified into groups called Ambulatory Payment Classifications or APCs. Services in each APC are clinically similar and require similar resources. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Within each APC, payment for ancillary and supportive items and services is packaged into payment for the primary service. A full list of APCs, status indicators and their definitions is published in the OPPS final rules each year which are publicly available through the Centers for Medicare and Medicaid Services.
9. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - F – Reimbursement was based on the average wholesale price plus a mark-up and dispensing fee
   - 59 – Reimbursement is based on the Medicare reimbursement plus the state specified percentage increase and implantable carve out
   - 72 – This service is not reimbursable in a hospital outpatient setting.

Issues

1. Did the requestor submit copies of required medical records to support the services as billed in accordance with 28 Texas Administrative Code §133.307(c)(2)(E)?
2. Did the requestor submit a position statement including a description of the health care in dispute in accordance with 28 Texas Administrative Code §133.307(c)(2)(F)(i)?

3. Were the disputed services subject to a specific fee schedule set in a contract between the parties that complies with the requirements of Labor Code §413.011?
4. Can the maximum allowable reimbursement (MAR) amount for the disputed services be determined according to 28 Texas Administrative Code §134.403(f)?
5. Did the facility or a surgical implant provider request separate reimbursement for implantables in accordance with 28 Texas Administrative Code §134.403(g)?
6. Is the requestor entitled to additional reimbursement for the disputed services?

Findings

1. 28 Texas Administrative Code §133.307(c)(2)(E) requires that the request shall include "a copy of all applicable medical records specific to the dates of service in dispute." Review of the submitted documentation finds that the requestor has not provided copies of all medical records pertinent to the services in dispute. The requestor did not submit a copy of the operative report, anesthesia record, post-operative care record, radiology reports, lab reports or other pertinent medical records sufficient to support the services in dispute. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(E).
2. 28 Texas Administrative Code §133.307(c)(2)(F)(i) requires that the request shall include "a position statement of the disputed issue(s) that shall include"… "a description of the health care for which payment is in dispute." Review of the submitted documentation finds that the requestor has not provided a description of the health care for which payment is in dispute. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(F)(i).
3. No documentation was found to support a contractual agreement between the parties to this dispute. Therefore, the Division concludes that the disputed services are not included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011.
4. Review of the submitted documentation finds that the maximum allowable reimbursement (MAR) amount for the disputed services can be determined according to 28 Texas Administrative Code §134.403(f).
5. Review of the submitted documentation finds that separate reimbursement for implantables was requested, however, review of the submitted documentation finds no certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable(s) as required by 28 Texas Administrative Code §134.403(g)(1). The Division therefore finds that the requestor has not met the requirements of §134.403(g).
6. Reimbursement for the disputed services is calculated as follows:

   CPT code 36415, billed under Revenue code 0300, has a payment status indicator of A which, per Addendum D1, signifies a service that is paid under a payment system other than OPPS. 28 Texas Administrative code §134.403(h) provides that for services not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2), and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. The applicable Division Fee Guideline for this clinical lab service is set forth in §134.203(e)(1) which provides that the MAR for such pathology and laboratory services shall be 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service. The Medicare clinical fee for this service is $3.00. 125 percent of this amount yields a MAR of $3.75.

   CPT code 80053, billed under Revenue code 0301, has a payment status indicator of A which, per Addendum D1, signifies a service that is paid under a payment system other than OPPS. 28 Texas Administrative code §134.403(h) provides that for services not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2), and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. The applicable Division Fee Guideline for this clinical lab service is set forth in §134.203(e)(1) which provides that the MAR for such pathology and laboratory services shall be 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service. The Medicare clinical fee for this service is $14.77. 125 percent of this amount yields a MAR of $18.46.

   CPT code 85025, billed under Revenue code 0305, has a payment status indicator of A which, per Addendum D1, signifies a service that is paid under a payment system other than OPPS. 28 Texas Administrative code §134.403(h) provides that for services not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2), and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. The applicable Division Fee Guideline for this clinical lab service is set forth in §134.203(e)(1) which provides that the MAR for such pathology and laboratory services shall be 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service. The Medicare clinical fee for this service is $10.86. 125 percent of this amount yields a MAR of $13.56.

CPT code 85610, billed under Revenue code 0305, has a payment status indicator of A which, per Addendum D1, signifies a service that is paid under a payment system other than OPPS. 28 Texas Administrative code §134.403(h) provides that for services not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2), and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. The applicable Division Fee Guideline for this clinical lab service is set forth in §134.203(e)(1) which provides that the MAR for such pathology and laboratory services shall be 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service. The Medicare clinical fee for this service is $5.49. 125 percent of this amount yields a MAR of $6.86.

CPT code 85730, billed under Revenue code 8.38, has a payment status indicator of A which, per Addendum D1, signifies a service that is paid under a payment system other than OPPS. 28 Texas Administrative code §134.403(h) provides that for services not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2), and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. The applicable Division Fee Guideline for this clinical lab service is set forth in §134.203(e)(1) which provides that the MAR for such pathology and laboratory services shall be 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service. The Medicare clinical fee for this service is $8.38. 125 percent of this amount yields a MAR of $10.48.

CPT code 81003, billed under Revenue code 0307, has a payment status indicator of A which, per Addendum D1, signifies a service that is paid under a payment system other than OPPS. 28 Texas Administrative code §134.403(h) provides that for services not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2), and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. The applicable Division Fee Guideline for this clinical lab service is set forth in §134.203(e)(1) which provides that the MAR for such pathology and laboratory services shall be 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service. The Medicare clinical fee for this service is $3.14. 125 percent of this amount yields a MAR of $3.93.

CPT code 81025, billed under Revenue code 0307, has a payment status indicator of A which, per Addendum D1, signifies a service that is paid under a payment system other than OPPS. 28 Texas Administrative code §134.403(h) provides that for services not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2), and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided. The applicable Division Fee Guideline for this clinical lab service is set forth in §134.203(e)(1) which provides that the MAR for such pathology and laboratory services shall be 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule for the technical component of the service. The Medicare clinical fee for this service is $8.84. 125 percent of this amount yields a MAR of $11.05.

CPT code 77002 has a status indicator of N which indicates packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers. No separate reimbursement is recommended.

CPT code 71020 is classified under APC 0260. The payment rate for APC 0260 is listed in OPPS Addendum A as $44.29. This amount multiplied by 60% yields an unadjusted labor-related amount of $26.57. This amount multiplied by the annual wage index for this facility of 0.9373 yields an adjusted labor-related amount of $24.91. The non-labor related portion is 40% of the APC rate or $17.72. The sum of the labor and non-labor related amounts yields an APC payment amount of $42.62. This service has a status indicator of X, which indicates ancillary services paid under OPPS with separate APC payment. The total APC payment for this service, including outliers, is $42.62. This amount multiplied by 200% yields a MAR of $85.25.

CPT code 63685 is classified under APC 0222. The payment rate for APC 0222 is listed in OPPS Addendum A as $15337.45. This amount multiplied by 60% yields an unadjusted labor-related amount of $9202.47. This amount multiplied by the annual wage index for this facility of 0.9373 yields an adjusted labor-related amount of $8625.48. The non-labor related portion is 40% of the APC rate or $6134.98. The sum of the labor and non-labor related amounts yields an APC payment amount of $14760.46. This service has a status indicator of S, which indicates a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. The total APC payment for this service, including outliers, is $14760.46. This amount multiplied by 200% yields a MAR of $29520.91.

CPT code 63650 is classified under APC 0040. The payment rate for APC 0040 is listed in OPPS Addendum A as $4062.82. This amount multiplied by 60% yields an unadjusted labor-related amount of $2437.69. This amount multiplied by the annual wage index for this facility of 0.9373 yields an adjusted labor-related amount of $2284.85. The non-labor related portion is 40% of the APC rate or $1625.13. The sum of the labor and non-labor related amounts yields an APC payment amount of $3909.98. This service has a status indicator of

S, which indicates a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. The total APC payment for this service, including outliers, is $3909.98. This amount multiplied by 200% yields a MAR of $7819.95.

CPT code 63650 is classified under APC 0040. The payment rate for APC 0040 is listed in OPPS Addendum A as $4062.82. This amount multiplied by 60% yields an unadjusted labor-related amount of $2437.69. This amount multiplied by the annual wage index for this facility of 0.9373 yields an adjusted labor-related amount of $2284.85. The non-labor related portion is 40% of the APC rate or $1625.13. The sum of the labor and non-labor related amounts yields an APC payment amount of $3909.98. This service has a status indicator of S, which indicates a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. The total APC payment for this service, including outliers, is $3909.98. This amount multiplied by 200% yields a MAR of $7819.95.

CPT code 93005 is classified under APC 0099. The payment rate for APC 0099 is listed in OPPS Addendum A as $24.79. This amount multiplied by 60% yields an unadjusted labor-related amount of $14.87. This amount multiplied by the annual wage index for this facility of 0.9373 yields an adjusted labor-related amount of $13.94. The non-labor related portion is 40% of the APC rate or $9.92. The sum of the labor and non-labor related amounts yields an APC payment amount of $23.86. This service has a status indicator of S, which indicates a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. The total APC payment for this service, including outliers, is $23.86. This amount multiplied by 200% yields a MAR of $47.71.

CPT code 95972 is classified under APC 0663. The payment rate for APC 0663 is listed in OPPS Addendum A as $97.53. This amount multiplied by 60% yields an unadjusted labor-related amount of $58.52. This amount multiplied by the annual wage index for this facility of 0.9373 yields an adjusted labor-related amount of $54.85. The non-labor related portion is 40% of the APC rate or $39.01. The sum of the labor and non-labor related amounts yields an APC payment amount of $93.86. This service has a status indicator of S, which indicates a significant procedure not subject to multiple procedure discounting, paid under OPPS with separate APC payment. The total APC payment for this service, including outliers, is $93.86. This amount multiplied by 200% yields a MAR of $187.72.

The total maximum allowable reimbursement (MAR) for all disputed services is $45,549.58. This amount less the amount previously paid by the respondent of $47,826.71 leaves an amount due to the requestor of $0.00.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The Division concludes that this dispute was not filed in the form and manner prescribed under Division rules at 28 Texas Administrative Code §133.307. The Division further concludes that the requestor failed to support its position that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature

	Grayson Richardson	September 30, 2011
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and***

Decision together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.